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Generaldirektion 2

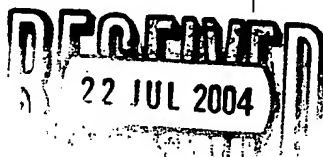
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|--|-----------------------|--------------------|
| Application No. 03 254 159.1 - 1244 | Ref. RJB/P410035EP | Date 20.07.2004 |
| Applicant Openwave Systems Inc. | | |

Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



BERMUDEZ EDO M
Primary Examiner
for the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)

Best Available Copy

**Bescheld/Protokoll (Anlage)**

Datum
Date 20.07.2004
Date

Communication/Minutes (Annex)

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Notification/Procès-verbal (Annexe)

Anmelde-Nr.:
Application No.: 03 254 159.1
Demande n°:

The examination is being carried out on the **following application documents**:

Text for the Contracting States:

AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC NL PT RO SE SI SK TR LI

Description, pages:

1-28 as originally filed

Claims, No.:

1-14 as originally filed

Drawings, sheets:

1/14-14/14 as originally filed

1 The following documents are referred to in this communication

D1: WO 98 35469 A (SABRE GROUP INC) 13 August 1998

D2: US 2001/037192 A1 (KANEKO HIROSHI ET AL) 1 November 2001

2 The application is not allowable under Article 52(1) EPC, because the subject-matter of claims 1 and 14 is not new, and because the subject-matter of claims 2-13 does not involve an inventive step.

2.1 Document D1 discloses, in terms of **Claim 1**, a method for providing access to content for use on wireless communication devices (abstract), the method comprising:
operating a server system to store domain data describing a plurality of domains (p.22-23), each domain representing a different subset of a plurality of wireless services subscribers (p. 20 lines 10-15 and p. 23 lines 12-16);
operating the server system to enable a plurality of content suppliers (p. 11 line 3) to publish content on the server system via a computer network such that the content is accessible to the plurality of wireless services subscribers (p. 20 lines 10-15, p. 8 lines 1-3); and
operating the server system to enable subscribers in each of the plurality of domains to acquire the content via at least one wireless network and to use the content on associated wireless devices (p. 18 lines 15-17, p. 7 lines 4-6).

Since all features of claim 1 are known in combination from document D1, the subject-matter of claim 1 is not new (Article 54(1) and (2) EPC). Consequently, claim 1 is not allowable (Article 52 (1) EPC).



2.2 **Claim 14** is a representation of claim 1 in terms of a system. Therefore, the above arguments with respect to novelty and of the subject-matter of claim 1 similarly apply to claim 14. Consequently, the subject-matter of claim 14 is also not new, in the sense of Article 54(1) and (2) EPC. Thus, claim 14 is also not allowable (Article 52 (1) EPC).

3 None of the dependent claims 2-13 contains additional features which leads to subject-matter that is both new and involves an inventive step.

3.1 The problem solved by the additional features of **claims 2-13** may be regarded as the problem of how to charge subscribers for the digital content they acquire. (see description paragraph 0006). Faced with the objective problem, the skilled person would come across document D2 in the field of management of distribution of digital content, which is the field of the application and of the objective problem. The additional features of claims 2-8 and 10-13 are described in document D2 (see par. 0077 for claims 2, 4, 6 and 10, par. 0076 for claims 3 and 6, par. 0109 for claims 5 and 6, par. 0085 for claims 7 and 11, par. 0072 for claims 8 and 12, and par. 0079-0087 for claim 13), as providing the same advantages as in the present application. The skilled person would therefore regard it as normal design option to include this feature in the information aggregation and synthesization system, as described in document D1, page 5, in order to solve the problem posed, and doing so he would arrive at the subject-matter of claims 2-8 and 10-13. In the light of the problem to be solved the additional features of **claim 9**, appear to be standard design procedure. Their inclusion in the information aggregation and synthesization system of document D1 would be an obvious design possibility for the skilled person.

Therefore the subject-matter of claims 2-13 does not involve an inventive step in the sense of Article 52(1) and 56 EPC.

4 It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 29(1) EPC, with those features which in combination are part of the prior art (see document D1 and D2) being placed in the preamble. The applicant should also indicate in the letter of reply the difference of the subject-matter of the new claim vis-à-vis the state of the art and the significance thereof.

4.1 Reference signs in parentheses should be inserted in all the claims to increase their intelligibility, Rule 29(7) EPC. This applies to both the preamble and the characterising portion (see Guidelines C-III 4.11).

4.2 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims (Rule 27(1) (c) EPC).

4.3 Documents D1 and D2, which appear to represent the most relevant prior art, should be acknowledged in the description (Rule 27 (1) (b) EPC).

4.4 Pages 24a-24d of the description defined an additional set of claims. This implies that the subject-matter for which protection is sought may be different to that defined by claims 1-14. Therefore the claims are not clear (Article 84 EPC) when used to interpret them with pages 24a-24d. This pages

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should therefore be remove.

- 4.5 The vague and imprecise statement in the description on page 24 implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity of the claims (Article 84 EPC) when used to interpret them (see the Guidelines, C-III, 4.3a). This statement should therefore be amended to remove this inconsistency.
- 4.6 On paragraph 1 a document is "incorporated by reference". If this document contains subject-matter which is essential for carrying out the invention as meant by Article 83 EPC, it should be expressly incorporated in the description. If it does not, then the expression "incorporated by reference" should be deleted from the description (see guidelines C-II, 4.18).
- 4.7 According to the requirements of Rule 35(13) and Rule 32(2)(I) EPC, the terminology and the signs shall be consistent throughout the application:
- This requirement is not met in view of the use of the expressions "2A, 2B, 3A and 3B" in par. 0027, referring to fig. 1, which doesn't have any of these references. It is suggested to add said references in fig. 1
- 4.8 The terms Motorola, Nokia, etc. used in the description, appear to be registered trade marks and should be identified as such (see Guidelines, C-II, 4.16-4.17). It is sufficient to indicate that a word is a registered trademark by adding the symbol ® or TM.
- 4.9 The applicant is requested to change the term "said domain" in the **claim 7**, for the term "said domains", the term "warless" in the **description** in par.0028, for the term "wireless" and the terms "25A and 25B" in the **description** in par.0040, for the term "5A and 5B". (Rule 88).
- 4.10 Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).
In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based. If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

M. Bermúdez.